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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,018	10/31/2003	Rafael L. Espinoza	1856-29800 (9594.0-01)	2141
31889	7590	05/25/2007		
ConocoPhillips Company - I. P. Legal			EXAMINER	
P.O. Box 2443			LANGEL, WAYNE A	
Bartlesville, OK 74005			ART UNIT	PAPER NUMBER
			1754	
			MAIL DATE	DELIVERY MODE
			05/25/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/699,018

Applicant(s)

ESPINOZA ET AL.

Examiner

Wayne Langel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 19-21, 23-33, 36, 41, 44, 45 and 49-76 is/are pending in the application.
- 4a) Of the above claim(s) 1, 33, 36, 41, 44 and 45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-21, 23-32 and 49-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11-24-03, 6-7-04, 4-27-07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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Applicants' traverse of the restriction requirement has been considered, but is not deemed persuasive. Applicants' argument, that no undue burden of search exists on the PTO as required by MPEP 803 to examine claims to all inventions, is not convincing. MPEP 803 states that if the search and examination can be made without serious burden, the examiner must examine all the claims on the merits. There is more involved in examining a patent application besides searching, such as evaluating the prior art and applicants' arguments, and formulating rejections. Moreover, the process for making the catalyst recited in the Group II claims could be used to make other products, such as one which is not calcined or one which does not include the specific catalytic metals and/or promoters as recited in claim 1. Applicants' argument, that the delay in restriction is prejudicial to timely examination and patent term of the non-elected invention, is not convincing, since this factor is irrelevant to the issue of whether or not the restriction requirement is proper. Accordingly the restriction requirement is made FINAL.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21, 23-32 and 49-76 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sung et al '507 or Williamson et al '935 or Yamada et al '804 or Mussmann et al '941. No distinction is seen between the processes disclosed by Sung et al '507, Williamson et al '935, Yamada et al '804, and Mussmann et al '941, and that recited in claims 19-21, 23-32 and 49-76. Sung et al '507, Williamson et al '935, Yamada et al '804, and Mussmann et al '941 all disclose methods for making catalysts wherein separate metals such as platinum group metals are applied to a first support and separate metals or promoters such as rare earth metals are applied to a second support, and the two loaded supports are mixed and formed into distinct structures. (See, e. g., Paragraphs [0029] and [0044] through [0052] of Mussmann et al '941; the paragraph bridging columns 2 and 3, col. 4, lines 18-22 and col. 6, lines 48-65 of Yamada et al '804; col. 2, line 9 to col. 3, line 43 of Williamson et al '935; and col. 15, line 23 to col. 19, line 21 of Sung et al '507.)

The Drawing is objected to under 37 CFR 1.84 (u) (1) in referring to the sole figure as "Figure 1". The specification is also objected to in referring to the sole figure as "Figure 1".

The other references are made of record for disclosing methods for making catalysts wherein separate metals applied to separate supports.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Langel whose telephone number is 571-272-1353. The examiner can normally be reached on Monday through Friday, 8 am - 3:30 pm Eastern Time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Wayne Langel  
Primary Examiner  
Art Unit 1754